

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION

3  
4                               BENCH SESSION  
5                               (PUBLIC UTILITY)  
6

7  
8                               Springfield, Illinois  
9                               Wednesday, October 20, 2010  
10

11               Met, pursuant to notice, at 10:30 a.m. in the  
12   Audiovisual Room, Second Floor, Leland Building, 527  
13   East Capitol Avenue, Springfield, Illinois.

14   PRESENT:

15               MR. MANUEL FLORES, Acting Chairman

16               MS. LULA M. FORD, Commissioner  
                  (Via teleconference)

17               MS. ERIN M. O'CONNELL-DIAZ, Commissioner  
18               (Via teleconference)

19               MR. SHERMAN J. ELLIOTT, Commissioner

20               MR. JOHN T. COLGAN, Acting Commissioner

21   SULLIVAN REPORTING COMPANY, by  
22   Carla J. Boehl, Reporter  
  CSR #084-002710

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PROCEEDINGS

ACTING CHAIRMAN FLORES: Pursuant to the provisions of the Illinois Open Meetings Act, I now convene a regularly scheduled Bench Session of the Illinois Commerce Commission. With me in Springfield are Commissioner Elliott and Commissioner Colgan and with us in Chicago are Commissioners Ford and O'Connell-Diaz.

Good morning, Commissioners. I am Acting Chairman Flores. We have a quorum.

Before moving into the agenda, according to Section 1700.10 of the Illinois Administrative Code, this is the time we allow for members of the public to address the Commission. Members of the public wishing to address the Commission must notify the Chief Clerk's Office at least 24 hours prior to the Bench Session. According to the Chief Clerk's Office, we have no requests to speak at today's Bench Session.

(The Transportation  
portion of the proceedings  
was held at this time and

1                                   is contained in a separate  
2                                   transcript.)

3            ACTING CHAIRMAN FLORES:  Turning now to the  
4   Public Utility agenda, we will start with the  
5   approval of minutes from the September 22 Bench  
6   Session.  Is there a motion to approve the minutes?

7            ACTING COMMISSIONER COLGAN:  So move.

8            ACTING CHAIRMAN FLORES:  I will second it.  
9   It's been moved and seconded.  All in favor say aye.

10           COMMISSIONERS:  Aye.

11           ACTING CHAIRMAN FLORES:  Any opposed?

12                                   (No response.)

13           ACTING CHAIRMAN FLORES:  The vote is 5-0  
14   approving the minutes for September 22.

15                           Beginning with the Electric agenda,  
16   Items E-1 through E-3 (08-0336, 08-0337, 08-0338) may  
17   be taken together.  These items concern petitions for  
18   special permission for tariff revisions filed back in  
19   2008 by the Ameren Illinois Utilities.  Motions for  
20   Withdrawal had been made in 2008 and Administrative  
21   Law Judge Wallace recommends that we formally grant  
22   those Motions for Withdrawal to finally close these

1 dockets.

2 I will make a motion to grant these  
3 Motions to Withdraw the petitions. Is there a  
4 second?

5 ACTING COMMISSIONER COLGAN: Second.

6 ACTING CHAIRMAN FLORES: It's been moved and  
7 seconded. All in favor say aye.

8 COMMISSIONERS: Aye.

9 ACTING CHAIRMAN FLORES: Any opposed?

10 (No response.)

11 ACTING CHAIRMAN FLORES: The vote is 5-0 and  
12 the Motions to Withdraw are granted, thus closing  
13 these dockets and hopefully helping to clean up the  
14 Commission's e-Docket system.

15 We will use this 5-0 vote for the  
16 remainder of the Public Utility agenda unless  
17 otherwise noted.

18 Item E-4 is Docket Number 09-0575.

19 This concerns a complaint by Anthony James Grason  
20 against AmerenIP concerning billing and charges.

21 Administrative Law Judge Tapia recommends entry of an  
22 Order denying the complaint due to the lack of

1 evidence presented by the complainant.

2 Is there any discussion?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Any objections?

5 (No response.)

6 ACTING CHAIRMAN FLORES: Hearing none, the  
7 Order is entered and the complaint is denied.

8 Item E-5 is Docket Number 10-0285.

9 This item concerns a petition by Prospect Resources  
10 for the protection of confidential and/or proprietary  
11 information contained in the company's Annual  
12 Recertification Report. Administrative Law Judge  
13 Teague recommends entry of an Order granting the  
14 relief requested for a period of two years.

15 Is there any discussion?

16 (No response.)

17 ACTING CHAIRMAN FLORES: Any objections?

18 (No response.)

19 ACTING CHAIRMAN FLORES: Hearing none, the  
20 Order is entered.

21 Item E-6 is Docket Number 10-0426.

22 This item concern a complaint as to billing and

1 charges by April Stone against ComEd. Administrative  
2 Law Judge Riley recommends entry of an Order  
3 dismissing the complaint without prejudice for want  
4 of prosecution.

5 Is there any discussion?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Any objections?

8 (No response.)

9 ACTING CHAIRMAN FLORES: Hearing none, the  
10 complaint is dismissed.

11 Item E-7 is Docket Number 10-0529.  
12 This item concerns a petition by Hudson Energy  
13 Services for the protection of confidential and/or  
14 proprietary information contained in the company's  
15 RPS Compliance Report. Administrative Law Judge  
16 Albers recommends entry of an Order granting the  
17 relief requested for a period of two years.

18 Is there any discussion?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Any objections?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Hearing none, the

1 Order is entered.

2 Item E-8 is Docket Number 10-0539.

3 This item concerns a petition by ComEd under Section  
4 7-101 of the Public Utilities Act to enter into a  
5 credit agreement with Seaway Bank and Trust, an  
6 affiliated interest. Administrative Law Judge Haynes  
7 recommends entry of an Order approving ComEd's  
8 petition.

9 Is there any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the  
14 Order is entered and the petition is approved.

15 Item E-9 is Docket Number 10-0547.

16 This item concerns AmerenIP's petition for approval  
17 of an electric supplier customer release allowing for  
18 the City of Peru to serve a property in AmerenIP's  
19 service territory. Administrative Law Judge Jones  
20 recommends entry of an Order granting the requested  
21 relief.

22 Is there any discussion?

1 (No response.)

2 ACTING CHAIRMAN FLORES: Any objections?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Hearing none, the  
5 Order is entered and the release is granted.

6 Item E-10 is Docket Number 10-0563.

7 This is the IPA Procurement Plan docket and at our  
8 last Bench Session the Commission determined that a  
9 hearing was not necessary to resolve any issues  
10 associated with IPA's proposed plan. Today we are  
11 now faced with an Emergency Motion for  
12 Reconsideration of that decision brought by Iberdrola  
13 and joined by Duke Energy. Administrative Law Judge  
14 Albers recommends that the Commission deny the  
15 emergency motion.

16 Any discussion?

17 JUDGE ALBERS: Mr. Chairman, if I can just add,  
18 since this memo was prepared, ComEd and IPA filed  
19 responses to the motion urging the Commission to deny  
20 the motion.

21 ACTING CHAIRMAN FLORES: Very well. Any  
22 other -- any discussion?



1 (No response.)

2 ACTING CHAIRMAN FLORES: Any other questions  
3 for Administrative Law Judge Albers?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Very well. Any  
6 objections?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Very well. Hearing  
9 none, the Motion for Reconsideration is denied.

10 Thank you, Your Honor.

11 Turning to Gas items, the Natural Gas  
12 Item G-1 (10-0609) concerns a proposed citation  
13 against Shawneetown regarding the alleged operation  
14 of a municipal gas system in violation of federal  
15 rules as incorporated by the Commission in Part 520  
16 of Title 83 of the Illinois Administrative Code.  
17 Staff recommends entry of an Order initiating the  
18 citation proceeding.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1           ACTING CHAIRMAN FLORES:   Hearing none, the  
2   Order is entered.

3                       Items G-2 and G-3 (10-0573, 10-0574)  
4   will be taken together.   These items concern  
5   petitions by Peoples Gas and North Shore Gas for  
6   special permission for rate schedule revisions  
7   surrounding the Rider EEP for the utilities' energy  
8   efficiency programs.   Staff recommends that we allow  
9   the companies' proposal by granting the request for  
10  special permission.

11                      Is there any discussion?

12                                       (No response.)

13           ACTING CHAIRMAN FLORES:   Any objections?

14                                       (No response.)

15           ACTING CHAIRMAN FLORES:   Hearing none, the  
16  requests for special permission are granted.

17                      Item G-4 is Docket Number 09-0166 and  
18  09-0167 Consolidated.   This is the Peoples and North  
19  Shore Gas Companies' rate case filed back in 2009,  
20  and before us today is a motion by the Attorney  
21  General's Office for a stay of the companies' Rider  
22  ICR for infrastructure cost recovery.   Administrative

1 Law Judge Haynes recommends that the Commission deny  
2 the motion for a stay.

3 Any discussion?

4 COMMISSIONER FORD: Chairman?

5 ACTING CHAIRMAN FLORES: Yes, ma'am.

6 COMMISSIONER FORD: Before I make my statement,  
7 I would like for the Judge to brief us on this.

8 ACTING CHAIRMAN FLORES: Your Honor?

9 JUDGE HAYNES: As the Commission knows, this  
10 Rider ICR is on appeal and the Attorney General's  
11 Office has asked that the Commission put a stay on  
12 the Order which approved the companies' Rider ICR.  
13 And I recommend that that stay -- that the Commission  
14 not grant the stay. Rider ICR the Commission  
15 approved because of the safety concerns with the age  
16 of the companies' mains that were at issue here, and  
17 the rider allows the Commission to require the  
18 companies to expedite the replacement of those mains.

19 And so I think that because the  
20 Commission found those safety concerns, that the  
21 company should go ahead with the expedited schedule  
22 of this replacement that the rider allows them to do.

1           COMMISSIONER FORD:   Because initially the  
2   replacement was going to take 50 years, and in our  
3   motion we asked that it be expedited to 20 years.

4           JUDGE HAYNES:   Yes.

5           COMMISSIONER FORD:   And I totally agree with  
6   everything that you have put into it, your brief, as  
7   sitting on the National Pipeline Safety Board.   This  
8   is something that would cause irreparable harm to the  
9   citizens who live in the great city of Chicago.   So I  
10   do thank you for this Order.

11          COMMISSIONER O'CONNELL-DIAZ:   If I might, I  
12   would just like to read a little something here for  
13   everyone's edification.   This is from the National  
14   Transportation Safety Board.

15                        "On September 9, 2010, at  
16   approximately 6:11 p.m. Pacific Daylight Time, a  
17   30-inch diameter natural gas transmission line, Line  
18   132, owned and operated by Pacific Gas and Electric  
19   Company (PG&E) ruptured in a residential area in San  
20   Bruno, California.   On September 10 the NTSB launched  
21   a team to California to investigate this tragedy.  
22   Vice Chairman Christopher Hart was the NTSB member on

1 the team. (Static) It occurred near milepost  
2 (Static) 39B of Earl Avenue and Glenwood Drive.  
3 (Static) Approximately 47.6 million standard cubic  
4 feet of natural gas was released from this rupture.  
5 The rupture created a crater approximately 72 feet  
6 long by 26 feet wide. A pipe segment approximately  
7 28 feet long was found about 100 feet away from the  
8 crater. The released natural gas was ignited  
9 sometime after the rupture. The resulting fire  
10 destroyed 37 homes, damaged 18, (Static) eight people  
11 were killed, numerous individuals were injured and  
12 many more were evacuated from the area."

13 The pipe in this incident was put in  
14 the ground in 1956. The evidence in the record in  
15 our case showed us that some of the pipes in our city  
16 are 100 and maybe even more than 100 years old. I  
17 think this is the ultimate irreparable damage.

18 What we are talking about here in this  
19 case is recovery of money and it is a timing issue.  
20 Either it, as Commissioner Ford said, would be on a  
21 50-year program or a 20-year program. I wish it  
22 could be on a 10-year program. But it is going to be

1 on this program that we have initiated pursuant to  
2 this rider. The rider allows only those costs that  
3 are determined to be prudent in a prudency hearing  
4 that we have every year before anybody pays one cent  
5 towards the infrastructure improvements that are --  
6 they are just mandated by what we have seen happen in  
7 California. So I find it extremely, extremely  
8 disturbing to the public that we would have something  
9 like this come before us on such a critical safety  
10 issue.

11 And I would like to thank our staff.  
12 I know that Mr. Stoller testified in the proceeding  
13 that it was -- we needed to get moving on this  
14 quickly and that the system that was in Chicago was  
15 antiquated. And the Commission has fought long and  
16 hard about this issue and tried to do it in a way  
17 that is responsible but realizing that we are sitting  
18 on a potential safety nightmare.

19 So I would like to thank Judge Haynes  
20 for stepping us through this motion that was filed by  
21 our chief legal officer. And safety outweighs  
22 anything here. So I just -- I am just appalled by

1 the filing of this. Thank you.

2 ACTING CHAIRMAN FLORES: Any further  
3 discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Objections?

6 (No response.).

7 ACTING CHAIRMAN FLORES: Very well. Thank you,  
8 Commissioners. Hearing none, the Motion for a stay  
9 is denied.

10 Items G-5 and G-6 (09-0386, 10-0318)  
11 can be taken together. These items concern  
12 complaints by Betty Hudson and Tracye Brogden  
13 regarding billing and/or charges against Peoples Gas.  
14 In each case the parties have apparently resolved  
15 their differences and now bring Joint Motions to  
16 Dismiss which the Administrative Law Judges recommend  
17 that we grant.

18 Is there any discussion?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Any objections?

21 (No response.)

22 ACTING CHAIRMAN FLORES: Hearing none, the

1 Joint Motions to Dismiss are granted.

2 Item G-7 is Docket Number 10-0391.

3 This item concerns a complaint as to billing and/or  
4 charges brought by Michael Cornell against Nicor.

5 Administrative Law Judge Teague recommends entry of  
6 an Order dismissing the complaint without prejudice  
7 for want of prosecution.

8 Is there any discussion?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Any objections?

11 (No response.)

12 ACTING CHAIRMAN FLORES: Hearing none, the  
13 Order is entered and the docket is dismissed.

14 Items G-8 and G-9 (10-0427, 10-0491)  
15 can be taken together. These items concern  
16 complaints by Julie Halbower against Nicor and by  
17 Sandra Lawrence-Brogren and Valencia Condo  
18 Association against Peoples Gas. In each case the  
19 parties have resolved their differences and now bring  
20 Joint Motions to Dismiss which Administrative Law  
21 Judge Kimbrel recommends we grant.

22 Is there any discussion?



1 (No response.)

2 ACTING CHAIRMAN FLORES: Any objections?

3 (No response.)

4 ACTING CHAIRMAN FLORES: Hearing none, the

5 Joint Motions to Dismiss are granted.

6 Moving on to the Telecommunications

7 part of the agenda, Item T-1 is Docket Number

8 06-0602. This item concerns Mobilitie's application

9 for a Certificate of Local Authority to operate as a

10 facilities-based carrier of telecommunication

11 services in Chicago. The company had filed a Motion

12 to Withdraw back in 2007, and Administrative Law

13 Judge Riley recommends that the Commission act to

14 dismiss the docket so that our e-Docket system

15 properly reflects this docket as closed.

16 Is there any discussion?

17 (No response.)

18 ACTING CHAIRMAN FLORES: Any objections?

19 (No response.)

20 ACTING CHAIRMAN FLORES: Hearing none, the

21 docket is dismissed.

22 Item T-2 is Docket Number 10-0451.

1 This item concern an application by Central Scott  
2 Technologies seeking a Certificate of Local Exchange  
3 Authority, a Certificate of Service Authority and a  
4 Certificate of Interexchange Service Authority for  
5 its operations within the state of Illinois.

6 Administrative Law Judge Teague recommends that the  
7 Commission enter an Order granting the certificates.

8 Is there any discussion?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Any objections?

11 (No response.)

12 ACTING CHAIRMAN FLORES: Hearing none, the  
13 Order is entered and the certificates are granted.

14 Item T-3 is Docket Number 10-0526.

15 This item concerns an application by Clear Wireless  
16 for a Certificate of Authority to operate as a  
17 reseller of wireless telecommunication services  
18 throughout Illinois. Administrative Law Judge Riley  
19 recommends that the Commission enter an Order  
20 granting the certificate.

21 Is there any discussion?

22 (No response.)



1 charges by Mannan Abdul against Cbeyond  
2 Communications. The parties have resolved their  
3 differences and now bring a Joint Motion to Dismiss  
4 which Administrative Law Judge Haynes recommends that  
5 we grant.

6 Is there any discussion?

7 (No response.)

8 ACTING CHAIRMAN FLORES: Any objections?

9 (No response.)

10 ACTING CHAIRMAN FLORES: Hearing none, the  
11 Joint Motion to Dismiss is granted.

12 Items T-6 and T-7 (10-0479, 10-0480)  
13 can be taken together. These items concern petitions  
14 by Cellular Properties and the Illinois Valley  
15 Cellular RSA 2-I and RSA 2-II Partnership to protect  
16 against the disclosure of confidential and/or  
17 proprietary information in their annual reports. In  
18 each case Administrative Law Judge Teague recommends  
19 entry of an Order granting the requested relief for a  
20 period of two years.

21 Is there any discussion?

22 (No response.)



1 issuance of a certificate to provide service to a  
2 parcel of land that is a cite for a proposed fire  
3 station in unincorporated Jo-Daviess County.  
4 Administrative Law Judge Kimbrel recommends that the  
5 Commission enter an Order approving the contract  
6 between the company and the fire protection district  
7 and granting a Certificate of Public Convenience and  
8 Necessity for the provision of water service.

9 Is there any discussion?

10 (No response.)

11 ACTING CHAIRMAN FLORES: Any objections?

12 (No response.)

13 ACTING CHAIRMAN FLORES: Hearing none, the  
14 Order is entered and the request for relief is  
15 granted.

16 We have a couple of miscellaneous  
17 matters. Item M-1 (10-0610) concerns a resolution  
18 for the re-appointment of representatives of  
19 utilities and municipalities to the Underground  
20 Damage Prevention Advisory Committee. The resolution  
21 calls for Mr. Ted Anderson to be reappointed as a  
22 utility representative and Mr. Michael Reynolds to be

1 reappointed as a municipality representative. Staff  
2 recommends that the Commission adopt this resolution.

3 Is there any discussion?

4 (No response.)

5 ACTING CHAIRMAN FLORES: Any objections?

6 (No response.)

7 ACTING CHAIRMAN FLORES: Hearing none, the  
8 resolution is adopted.

9 Item M-2 is Docket Number 09-0511.

10 This docket concerns a rulemaking regarding revisions  
11 to Part 200.520 of Title 83 of the Illinois  
12 Administrative Code concerning interlocutory review.  
13 The first notice period with respect to this  
14 rulemaking has expired and Administrative Law Judge  
15 Dolan recommends that the Commission enter a Second  
16 Notice Order allowing for second notice of the  
17 proposed amendment to be shared with the Joint  
18 Committee on Administrative Rules.

19 Is there any discussion?

20 (No response.)

21 ACTING CHAIRMAN FLORES: Any objections?

22 (No response.)

1           ACTING CHAIRMAN FLORES:   Hearing none, the  
2   Second Notice Order is entered.

3                   Judge Wallace, are there any other  
4   matters to come before the Commission today, sir?

5           JUDGE WALLACE:   Not today, Mr. Chairman.

6           ACTING CHAIRMAN FLORES:   Thank you very much.  
7   And hearing none, this meeting stands adjourned.

8                   MEETING ADJOURNED

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